

THE TOWN OF FOREST HEIGHTS
RESOLUTION 10-18

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF FOREST HEIGHTS, MARYLAND REGARDING THE POWERS AND DUTIES OF THE SPEED MONITORING SYSTEM PROGRAM OMBUDSMAN AND THE OMBUDSMAN'S AUTHORITY TO REVIEW, VOID OR RESCIND CERTAIN VIOLATIONS, FINES AND FEES

Introduced By: Mayor Habeeb-Ullah Muhammad

WHEREAS, during its 2014 regular session, the General Assembly of Maryland passed Senate Bill 350 and House Bill 929 entitled as the "Speed Monitoring Systems Reform Act of 2014," thereby mandating certain changes to local speed camera programs including the appointment of an ombudsman to review certain citations; and

WHEREAS, the Mayor and Council has approved Ordinance 04-14 amending Section 15.6 (Speed Monitoring Systems) of the Ordinance Code of the Town of Forest Height; and

WHEREAS, pursuant to Section 1 of said Ordinance 04-14, that was codified as Section 15.6(e) of the Town Ordinance Code, the Mayor with the approval of the Council shall designate an official or employee by resolution or ordinance to investigate and respond to questions or concerns about the speed monitoring system program and the local designee or ombudsman shall review a citation generated by a speed monitoring system if the person who received the citation requests a review thereof before the deadline for contesting liability under said Ordinance; and

WHEREAS, pursuant to said Ordinance 04-14 and state law, the ombudsman may not be employed by the speed monitoring system contractor or have been involved in any review of a speed monitoring system citation, other than a review of a citation requested by an alleged violator for review before the deadline for contesting liability; and

NOW THEREFORE BE IT RESOLVED, and enacted that the Town Council hereby further establishes, describes and refines the following duties, procedures, and authority for the speed monitoring system program ombudsman as follows:

SECTION 1 – OMBUDSMAN; BACKGROUND; AND PURPOSE

(a) According to Section 15.6 of the Town Ordinance Code and as required by State law, the Mayor, with the approval of the Council, shall designate an official or employee by resolution or ordinance to investigate and respond to questions or concerns about the speed monitoring system program. The local designee shall also be known as the Speed Camera Ombudsman. The Ombudsman position shall be part time or a collateral duty. The SMS Administrator and the Ombudsman should establish and maintain a close working relationship.

(b) A Speed Monitoring System violation citation is generated by the Town's vendor or speed camera contractor when there is a violation during the permitted hours of operation. The

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information required to be printed on the citation as approved by the District Court is as prescribed by Section 21-809 of the Transportation Article of the Md. Ann. Code.

(c) The citation includes a statement that questions and concerns about the speed camera program or review of citations for technical errors should be directed to the Speed Camera Ombudsman.

(d) Pursuant to § 15.6(E) of the Town Code, the Ombudsman may not be employed by the speed monitoring system contractor or have been involved in any review of speed monitoring system citations as they are processed to be issued as violations, other than a review of a citation based on an alleged error.

(e) Chapter 13, Section 1 of FHPD General Order 2016-1 is the relevant police directive that applies to the Town's speed camera program. The Ombudsman shall be readily familiar with this directive as it is applicable to the FHPD and the speed camera program.

(f) Transparency and improving public safety with the community regarding the purposes and goals of the Town's SMS program shall be the goal of the Ombudsman's public information efforts. Public input including negative comments that are directed at speed cameras in the form of complaints can be used to strengthen and improve the existing program. The Ombudsman shall endeavor to provide assurances to citizens that the Town will respond in a timely manner to individual motorists' inquiries, concerns or complaints about the Town's SMS Program known as "Operation Get Home Safe."

SECTION 2 - DEFINITIONS

(a) "Due date" means the date printed on the citation on which the fine must be paid after which liability is imposed by operation of law, and a late fee may be assessed.

(b) "Erroneous violation" means a potential violation submitted by a speed monitoring system contractor (sometimes also known as the SMS vendor) for review by an agency that is apparently inaccurate based on a technical variable that is under the control of the contractor. "Erroneous violation" includes a potential violation based on:

1. A recorded image of a registration plate that does not match the registration plate issued for the motor vehicle in the recorded image;

2. A recorded image that shows a stopped vehicle or no progression;

3. An incorrectly measured speed for a motor vehicle;

4. A measured speed of a motor vehicle that is below the threshold speed (i.e., less than 12 miles per hour above the posted speed limit) that would subject the owner to a civil citation under this section;

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5. A recorded image that was taken outside of the hours and days (Mon. – Fri., 6 a.m. – 8 p.m.) that speed monitoring systems are authorized for use in school zones; and

6. A recorded image that was taken by a speed monitoring system with an expired calibration certificate.

(c) “FHPD” means the Forest Heights Police Department.

(d) “Flagging fee” means an administrative fee authorized by ordinance imposed by the Town for past due speed-monitoring system violations that are identified with the State Motor Vehicle Administration (“MVA”) thereby requesting that the Administration refuse registration or transfer of registration of the subject vehicle, until notified by the Town that the violation penalty has been satisfied. The MVA may impose its own flagging fee pursuant to COMAR in addition to the municipal flagging fee.

(e) “Late fee” means an administrative fee authorized by ordinance and charged to a person who is liable for a speed camera violation issued pursuant to Code, Section 15.6, and assessed upon written notification by the Town.

(f) “Program Administrator” means an employee or a representative of the FHPD designated by the Town to oversee the contract with the speed monitoring system contractor. The Program Administrator shall be designated by the Mayor and approved by the Council by motion entered into the journal pursuant to Section 15.6 of the Town Code.

(g) “Speed monitoring system” (sometimes known by the acronym “SMS”) means a device with one or more motor vehicle sensors producing recorded images of motor vehicles traveling at speeds at least 12 miles per hour above the posted speed limit.

SECTION 3 – REVIEW, REISSUANCE AND VOIDING OF CITATIONS

(a) Initiation of Ombudsman’s Review. The Speed Camera Ombudsman shall review a citation generated by a speed monitoring system when the person who received the citation specifically requests review before the deadline for contesting liability under Town Code, Section 15.6. The deadline for contesting liability (by requesting a court hearing) as written on the citation will typically be five (5) days before the Due Date.

(b) Voiding Citations. If the Ombudsman determines that the citation is an erroneous violation, as defined above, or was untimely delivered, or issued to the wrong person; the Ombudsman shall void the citation or take other appropriate action pursuant to this Resolution and relevant law.

(c) Untimely Mailing/Delivery of SMS Citation. Except as provided in subsection (f)(4) of TR § 21-809 of the Md. Ann. Code, a citation issued shall be mailed no later than: (i) 2 weeks after alleged violation if vehicle is registered in this state; and (ii) 30 days after alleged violation if vehicle is registered in another state. If the Ombudsman determines that a person did not receive

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notice of a citation issued pursuant to Section 15.6 of the Town Code and TR Art., § 21-809 due to an administrative error, the Ombudsman may recommend that the FHPD and its SMS vendor correct and resend the citation in accordance with Subsection (d) of § 21-809 or void the citation.

(d) Citation Sent to Non-Owner or Non-Driver of Vehicle.

1. The Ombudsman shall cooperate with the SMS Administrator and the SMS vendor to re-send citations when deemed appropriate. A driver should not evade liability simply because he or she does not own the vehicle, and an owner should not evade liability unless he or she in good faith discloses who may have been operating the vehicle with or without the owner's permission.
2. Except as provided in subsection (f)(4) of TR Art., § 21-809, the FHPD and/or its SMS vendor may not mail a citation to a person who is not an owner of the photographed vehicle.
3. There is an initial presumption that the owner was driving the car during the violation or knows who may have been driving the car at the time. If the District Court finds that the person named in the citation was not operating vehicle at time of violation; or receives evidence identifying another person driving the vehicle at time of violation the Clerk of Court shall provide to the agency issuing the citation a copy of any evidence substantiating who was operating the vehicle at the time of violation.
4. On receipt of substantiating evidence from the District Court, the FHPD through its vendor may issue a citation provided in subsection (d) of Section 21-809 to the person who evidence indicates was operating vehicle at time of violation. A new citation issued by the vendor pursuant to the SMS Administrator's direction shall be mailed no later than 2 weeks after receipt of evidence from District Court.

(e) Citations of Police or Public Safety Vehicles.

1. Police or public safety vehicles will be cited if the emergency lights are NOT flashing and their vehicle activates a speed camera. The citation will be voided for any Police, Fire, and/or EMS vehicle on a call for service that goes through a school zone with a Speed Camera in it. If no call sheet evidence/documentation can be located at the approval time the citation will be issued. The vehicle operator is responsible for the fine.
2. If an officer perceives that he/she activated a speed camera while responding to an emergency call without flashing emergency lights, he/she should so notify the dispatcher immediately and request an ALTARIS/CAD comment be added to record the notification.
3. If a citation subsequently comes through as processed, the Ombudsman or FHPD designee will query the CAD system for the notification, which will be copied, placed with the citation, and both documents will be forwarded to the Ombudsman, Program

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Administrator and the SMS vendor with a recommendation or decision to void or sustain the citation.

4. In the absence of notification to the dispatcher and/or the non-commissioned officer in charge, and upon receipt of a citation for a police or public safety vehicle, the Ombudsman will send an email to the officer or unit's officer-in-charge assigned to the vehicle at the time of the violation and request a return email response as to (1) whether the officer was driving the vehicle at the time of the violation and, if not, the identity of the person who had control of the vehicle, and (2) if there was any legitimate law enforcement reason for the violation.
5. The Ombudsman shall inform the Program Administrator of the officer's response and obtain any recommendation to void or sustain the citation. In any such case, the decision to void or sustain the citation rests with the Ombudsman. In all other cases, payment of the ticket will be the sole and personal responsibility of the cited officer.

(f) Notifications of Voided Citations. Should the Ombudsman take any action to void, rescind or nullify a citation or any associated fee, he or she shall notify the speed monitoring system contractor, debt collector and/or the motor vehicle administration or the Town's sole agent responsible for this function of the action for the purpose of rescinding any administrative penalties or fees that may have been imposed under Article 15 of the Town Code.

(g) Responses Placed in Writing. On receipt of a written question or concern from an individual, the Ombudsman shall provide a written answer or response to the person within a reasonable time.

(h) Requests for Information. The Ombudsman or the Town Clerk shall make any written questions or concerns received, and any subsequent written answers or responses, available for public inspection pursuant to the Md. Public Information Act.

SECTION 4 – NULLIFICATION OF CITATION FINES AND/OR ASSOCIATED FEES

The Town Council hereby authorizes and delegates to the Ombudsman the authority to remit, waive, rescind or forgive any individual speed camera citation fines together with any associated fees (i.e., municipal flagging, late and bad check) imposed by ordinance or resolution.

SECTION 5 – REPORTS AND INSPECTIONS

(a) Each month the Ombudsman shall prepare a report to the Mayor and Council of the actions taken during the previous month. The report shall include the total number of citations issued and contested, and the number and nature of inquiries and complaints received by the Ombudsman and a description of each complaint that was processed, the disposition thereof and the amounts of any fines or associated fees that were waived, remitted or rescinded, and the reasons thereof. Quarterly, the Ombudsman shall further report on his activities and duties under this Section.

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(b) Inspections. The Ombudsman shall periodically check each quarter the school zones for proper placement of signage and shall ensure that the Town's website contains the required information regarding the Town's SMS program as required by law. Furthermore, the Ombudsman shall periodically contact the Citations Processing Center operated by the SMS vendor to verify and report on any questions or concerns applicable to the SMS program registered with the Citations Processing Center. Nothing stated herein shall relieve or absolve the FHPD from performing its duties regarding the SMS program.

SECTION 6 – ETHICS

(a) Citations and related fees may be rejected, rescinded or waived only for the reasons outlined in this Resolution or superior law. Rejecting citations or fees for friends, relatives, government officials or police/fire personnel not taking official actions in response to an emergency, is highly unethical and unacceptable. If it is determined that an Ombudsman or police officer is engaged in the inappropriate and/or unethical rejecting of citations or fees, the offending person may be subject to discipline including removal or suspension office.

(b) The Ombudsman is further subject to the Public Ethics Law, the Employee Handbook, and other applicable law.

AND BE IT FURTHER RESOLVED that this Resolution shall take effect upon its passage.

PASSED this 26 day of March 2018.

APPROVED: By Resolution of the Town Council of The Town of Forest Heights, Maryland

<u>ROLL CALL VOTE</u>	<u>YEA/NAY/ABSTAIN/ABSENT</u>
MUHAMMAD	<u>Yea</u>
KENNEDY II	<u>Yea</u>
MCLAURIN	<u>Nay</u>
BARNES	<u>Nay</u>
HINES	<u>Yea</u>
WASHINGTON	<u>Yea</u>
BROWNSON	<u>Nay</u>

I HEREBY CERTIFY that the above Resolution No. 10-18 was passed by the required yea and nay vote of the Mayor and Council of Forest Heights on the 26 day of March 2018.

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ATTEST:

THE MAYOR AND COUNCIL OF THE
TOWN OF FOREST HEIGHTS

SIGNATURE ON FILE

Sherletta B. Hawkins, Town Clerk

By *SIGNATURE ON FILE* (Seal)

Habeeb-Ullah Muhammad, Mayor

By *SIGNATURE ON FILE* (Seal)

Jonathon Kennedy II, Council President